



UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/646,954	05/08/96	MACOR R	IDEW056

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C2M1/0626

EXAMINER
DANGANAN, J

ART UNIT	PAPER NUMBER
3203	3

DATE MAILED: 06/26/97

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

08/646,954

Applicant(s)

Richard J. Macor

Examiner

Joni B. Danganan

Group Art Unit

3203



☐ Responsive to communication(s) filed on _____

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-30 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-30 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☒ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

1. The disclosure is objected to because of the following informalities:

- (a) page 17, line 10, change "37" to --35--;
- (b) page 30, lines 2-3 is not a complete sentence; and
- (c) page 30, lines 7 and 12,

2. Applicant is advised that should Claim 13 be found allowable, Claim 16 will be rejected under 35 U.S.C. 101 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to reject the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

3. The non-statutory double patenting rejection, whether of the obviousness-type or non-obviousness-type, is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent. *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); and *In re Goodman*, 29 USPQ2d 2010 (Fed. Cir. 1993).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(b) and (c) may be used to overcome an actual or provisional rejection based on a non-statutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.78(d).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1-10 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 21-24 and 29-31 of copending Application No. 08/500,178 in view of Lawrie '849. Lawrie teaches that it is known in the art to form an outer tool-encircling member (10) such that the ends (34,42) of the inner cavity have a dimension greater than a dimension of a central part of the cavity. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the grip member of Application No. 08/500,178 by forming the ends of the cavity with a dimension greater than that of the central part as taught by Lawrie in order to minimize the surface area of the grip which would come into contact with the head of the tool.

This is a provisional obviousness-type double patenting rejection.

5. Claims 11-30 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 21-24 and 29-31 of copending Application No. 08/500,178 in view of Stroop '475. Stroop teaches that it is known in the art to form a gripping means with both an inner member (15) and an outer member (19) in order to provide for affording handgrips of adjustable widths to accommodate various individuals (see abstract). It would have been obvious to one of

ordinary skill in the art at the time the invention was made to have modified the gripping means of Application No. 08/500,178 by including an inner and an outer member as taught by Stroop in order to provide for affording handgrips of adjustable widths to accommodate various individuals.

This is a provisional obviousness-type double patenting rejection.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-4 and 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mills '188 in view of Lawrie '849.

Mills discloses a double-ended wrench (12) and a movable wrench grip (20) (see Fig. 5) which may be positioned at either end of the double ended wrench and whereby movement of the grip (20) is confined by the two wrench heads. As seen in Fig. 1, the width of each wrench head is greater than the width of the handle, and the width of the cavity of the wrench grip (20) is less than the width of the wrench heads. However, Mills does not disclose at least one end of the grip cavity having a dimension greater than that of a central part of the cavity. Lawrie

teaches that it is known in the art to form an outer tool-encircling member (10) such that the ends (34,42) of the inner cavity have a dimension greater than a dimension of a central part of the cavity. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the grip member of Mills by forming the ends of the cavity with a dimension greater than that of the central part as taught by Lawrie in order to minimize the surface area of the grip which would come into contact with the head of the tool.

In regard to Claims 2 and 7, the grip (20) of Mills is frictionally engaged with the wrench (12) thereby temporarily fixing the grip (20) on the wrench (12).

In regard to Claims 3, 4, 8 and 9, Fig. 5 shows that the movable wrench grip (20) includes at least one seam (21) extending the entire length thereof to facilitate attachment and detachment of the grip (20) with the wrench (12).

8. Claims 5 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mills '188 in view of Lawrie '849 as applied above, and further in view of Distiso '530.

Mills in view of Lawrie has been discussed above but does not disclose a wrench grip comprised of two separate interconnecting parts. Distiso teaches that it is known to form a handle/grip from two halves (34,36) having mating edges (38,42) with a plurality of couplers (40,44) for connecting the two halves as set forth in column 2, lines 43-51. It would have been

obvious to one of ordinary skill in the art at the time the invention was made to have further modified Mills by forming the wrench grip (20) from two interconnecting parts as taught by Distiso in order to better facilitate placement of the grip around the handle.

9. Claims 11-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mills '188 in view of Stroop '475.

Mills discloses a double-ended wrench (12) and a movable wrench grip (20) (see Fig. 5) which may be positioned at either end of the double ended wrench and whereby movement of the grip (20) is confined by the two wrench heads. As seen in Fig. 1, the width of each wrench head is greater than the width of the handle, and the width of the cavity of the wrench grip (20) is less than the width of the wrench heads. However, Mills does not disclose the grip comprising an inner member and an outer member. Stroop teaches that it is known in the art to form a gripping means with both an inner member (15) and an outer member (19) in order to provide for affording handgrips of adjustable widths to accommodate various individuals (see abstract). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the gripping means of Mills by providing an outer member as taught by Stroop in order to provide for affording handgrips of adjustable widths to accommodate various individuals.

In regard to Claims 12 and 22, the grip (20) of Mills is frictionally engaged with the wrench (12) thereby temporarily fixing the grip (20) on the wrench (12).

In regard to Claims 13, 16, 23 and 26, Fig. 5 shows that the movable wrench grip (20) includes at least one seam (21) extending the entire length thereof to facilitate attachment and detachment of the grip (20) with the wrench (12).

In regard to Claims 14, 17, 19, 24, 27 and 29, Stroop teaches that it is known to form the outer member (19) substantially elastic and continuous (see Fig. 3 and column 3, lines 57-59).

Regarding Claims 15, 18, 20, 25, 28 and 30, column 4, lines 27-35 of Stroop state that variations in size, materials, shape, and form of the adjustable handgrip are readily apparent and obvious to one of ordinary skill in the art. Therefore, forming the outer grip member of any particular length relative to the inner grip member would have been obvious to one of ordinary skill in the art.

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Harkins '850, Blaker '303, Page '746, Curry '043, Knauff '496 and Keperling, Sr. et al. '167 all disclose movable grip members.

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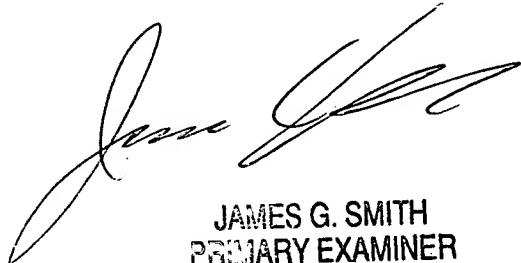
Olmr et al. '733, DeSerio et al. '045 and Hauser et al. '101
all disclose grip members comprised of both inner and outer
members.

11. Any inquiry concerning this communication or earlier
communications from the examiner should be directed to Joni
Danganan whose telephone number is (703) 305-5930.

Any inquiry of a general nature or relating to the status of
this application should be directed to the Group receptionist
whose telephone number is (703) 308-1148.

jbd *JBD*

June 22, 1997



JAMES G. SMITH
PRIMARY EXAMINER
ART UNIT 323